IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.299 OF 1998

Monika Manik Bagul .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Smt.Gauri K.Jadhav for the petitioner

Shri Y.D.Mullani, A.G.P. for the respondents

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 10TH SEPTEMBER, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. By the present petition, the petitioner is challenging an order of the Caste Scrutiny Committee dated 15th December 1997 rejecting the caste claim of the petitioner as belonging to Hindu Khatik. The facts of the present case are as under:-

2. The petitioner claims to be belonging to Hindu Khatik which falls under the category of Scheduled

Caste. On 6th August 1996 petitioner made an application to the 2nd respondent to get the Caste Validity Certificate and submitted necessary documents in support thereof. The petitioner in the meantime has passed the examination of H.S.C. in the year 1997. The petitioner thereafter applied for M.B.B.S. course under the reserved category for Scheduled Caste.

3. On 9th July 1997 the petitioner filed a Writ Petition in this court being Writ Petition No.3070 of 1997 since no Caste Certificate was issued though applied for. This court therefore, directed respondent no.2 to issue Caste Validity Certificate within 2 months and grant provisional admission to the petitioner herein.

4. On 15th December 1997 the petitioner received an order from the 2nd respondent refusing to issue Caste Validity Certificate inter alia stating that the petitioner does not belong to Hindu Khatik Samaj. It is this order which is subject matter of challenge in the present petition.

5. The learned counsel appearing for the petitioner contended that the order of the Caste Scrutiny Committee is totally erroneous in as much as various documents which are produced are totally ignored by the Caste Scrutiny Committee while arriving at decision to reject the caste claim of the petitioner. He further pointed out that petitioner produced the school leaving certificate of her grand father issued as far back as 17th August 1916 indicating his caste as Khatik. The petitioner has also produced a School Leaving Certificate of the uncle which is dated 9th July 1981. She also produced caste certificate dated 11th August 1981 issued to Kashinath Pandurang Bagul respectively indicating the caste as H.Khatik. However, the Caste Scrutiny Committee has proceeded on the basis no reliance can be placed on the aforesaid documents as the caste of the father of the petitioner is shown as Hindu-Dhangar in his School Leaving Certificate and he is also carrying on business.

6. We are not satisfied with the order passed by the Caste Scrutiny Committee as it indicates total non application of mind on the relevant and material documents which are produced before the Caste Scrutiny Committee. We are of the opinion that the committee was duty bound to take into consideration the probative value of the documents produced when the same are as that of Grand Father and Uncle and are of earlier period. Accordingly, we set aside the said order dated 15th December 1997 and we remand the matter back to the Caste Scrutiny Committee to consider the caste of the petitioner afresh after taking into consideration the aforesaid documents which are before them as well as by conducting necessary vigilance enquiry as required in the light of the judgment of Apex Court as in **Kumari Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and others (A.I.R. 1995 Supreme Court 94).**

6. The petitioner has already finished her M.B.B.S. Course during the pendency of the present petition. In the light of the aforesaid

circumstances, we are of the view that the order passed by the Caste Scrutiny Committee is not valid and we set aside the same and remand the matter back to the Caste Scrutiny Committee. We are also of the opinion that the petitioner's admission to the M.B.B.S. course be regularised since the petitioner has already completed her course of M.B.B.S. This regularisation has to be granted even if the caste certificate of the petitioner is rejected by the Committee on remand. With the aforesaid direction, we dispose of the present petition. However, there shall be no order as to costs.